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STATE OF ALABAMA

SEP 25 1989

89-00434

Honorable Wallace K. Brown
Judge of Probate
P.O. Box 700
Phenix City, Alabama 36868-0700

Counties - Court Costs - State
Funds

The increased court costs
authorized by Act No. 89-288 do
not apply to proceedings or
papers filed in probate court.

Dear Judge Brown:

This opinion is issued in response to your request for an
opinion from the Attorney General.

QUESTION

Does Act No. 89-288, which increases court
costs for certain cases in Russell County,
apply to commitment proceedings, notary
appointments, guardianships,
conservatorships, wills, letters of
administration and condemnation proceedings
filed in probate court?

FACTS AND ANALYSIS

Act No. 89-288 provides in pertinent part:

"In addition to any court costs and
fees now or hereafter authorized to be
collected, the county commission of Russell
County is authorized to assess a fee not to
exceed thirty dollars (\$30.00) upon the
privilege of filing any initial complaint in

all civil and criminal cases filed in any court, in the county, as well as a fee not to exceed five dollars (\$5.00) for the service of all pleadings and other documents in connection with any such action."
(emphasis added.)

The language used in Act No. 89-288 indicates that the types of cases in which additional costs are to be collected are not those "cases" which are filed in probate court.

Code of Alabama 1975, § 12-19-90, sets forth a schedule of fees for all papers and/or proceedings filed in probate court. These fees are distinguishable from the docket fees required to be paid upon the filing of a civil complaint or action. Furthermore, the filing of "papers" in probate court is not the same as the filing of an action. See opinion to Glenda A. Morgan, Assistant City Clerk, City of Mobile, under date of February 10, 1989.

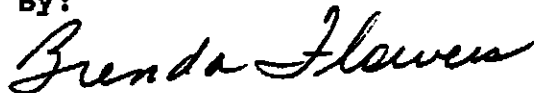
CONCLUSION

The increased court costs authorized by Act No. 89-288 do not apply to proceedings or papers filed in probate court.

I hope this sufficiently answers your question. If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

DON SIEGELMAN
Attorney General
By:



BRENDA FLOWERS
Assistant Attorney General